

Department of Energy

§ 603.510

§ 603.415 Cost sharing.

To help ensure a competitive process that is fair and equitable to all potential proposers, the announcement should state clearly:

(a) That, to the maximum extent practicable, the non-Federal parties carrying out a RD&D project under a TIA are to provide at least half of the costs of the project (see § 603.215(b));

(b) The types of cost sharing that are acceptable;

(c) How any in-kind contributions will be valued, in accordance with §§ 603.530 through 603.555; and

(d) Whether any consideration will be given to alternative approaches a proposer may offer to demonstrate its strong commitment to and self-interest in the project's success, in accordance with § 603.215.

§ 603.420 Disclosure of information.

The announcement should tell potential proposers that:

(a) For all TIAs, information described in paragraph (b) of this section is exempt from disclosure requirements of the Freedom of Information Act (FOIA)(codified at 5 U.S.C. 552) for a period of five years after the date on which the DOE receives the information from them; and

(b) As provided in 42 U.S.C. 7256(g) incorporating certain provisions of 10 U.S.C. 2371, disclosure is not required, and may not be compelled, under FOIA during that period if:

(1) A proposer submits the information in a competitive or noncompetitive process that could result in the award of a TIA; and

(2) The type of information is among the following types that are exempt:

(i) Proposals, proposal abstracts, and supporting documents; and

(ii) Business plans and technical information submitted on a confidential basis.

(c) If proposers desire to protect business plans and technical information for five years from FOIA disclosure requirements, they must mark them with a legend identifying them as documents submitted on a confidential basis. After the five-year period, information may be protected for longer periods if it meets any of the criteria in 5 U.S.C. 552(b) (as implemented by the

DOE in 10 CFR part 1004) for exemption from FOIA disclosure requirements.

Subpart E—Pre-Award Business Evaluation

§ 603.500 Pre-award business evaluation.

(a) The contracting officer must determine the qualification of the recipient, as described in §§ 603.510 and 603.515.

(b) As the business expert working with the program official, the contracting officer also must address the financial aspects of the proposed agreement. The contracting officer must:

(1) Determine that the total amount of funding for the proposed effort is reasonable, as addressed in § 603.520.

(2) Assess the value and determine the reasonableness of the recipient's proposed cost sharing contribution, as discussed in §§ 603.525 through 603.555.

(3) If contemplating the use of a fixed-support rather than expenditure-based TIA, ensure that its use is justified, as explained in §§ 603.560 and 603.565.

(4) Determine amounts for milestone payments, if used, as discussed in § 603.570.

§ 603.505 Program resources.

Program officials can be a source of information for determining the reasonableness of proposed funding (e.g., on labor rates, as discussed in § 603.520) or establishing observable and verifiable technical milestones for payments (see § 603.570).

RECIPIENT QUALIFICATION

§ 603.510 Recipient qualifications.

Prior to award of a TIA, the contracting officer's responsibilities for determining that the recipient is qualified are the same as those for awarding a grant or cooperative agreement. If the recipient is a consortium that is not formally incorporated, the contracting officer has the additional responsibility described in § 603.515.